

922 KAR 2:100. Certification of family child-care homes.

RELATES TO: KRS Chapter 13B, 17.165, 17.500 – 17.580, 186.020, 189.125, 194A.050(1), 199.011(2), (4), 199.894(5), 199.895, 199.896(18), 199.897, 199.898, 199.8982, 214.010, 214.036, 314.01(5), 527.070(1), 600.020, 620.020(8), 620.030, 16 C.F.R. 1219, 1220, 1221, 45 C.F.R. 98.2, 49 C.F.R. 571.213, 20 U.S.C. 6081-6084

STATUTORY AUTHORITY: KRS 194A.050(1), 199.8982(1)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.8982(1)(f) requires the cabinet to promulgate administrative regulations to establish standards for the issuance, monitoring, release of information, renewal, denial, revocation, and suspension of a certificate of operation, and to impose minimum staff-to-child ratios for a family child-care home. The statute authorizes the cabinet to establish minimum safety requirements for operation of a certified family child-care home. This administrative regulation establishes minimum requirements intended to protect the health, safety, and welfare of children cared for by certified family child-care home providers.

Section 1. Definitions. (1) "Address check" means a cabinet search of the Sex Offender Registry to determine if a person's residence is a known address of a registered sex offender.

(2) "Assistant" means a person:

(a) Who meets the requirements listed in Section 2(6) and Section 10 (7), (8), and (9) of this administrative regulation; and

(b) Whose work is either paid or unpaid.

(3) "Cabinet" is defined by the KRS 199.011(2).

(4) "Child" is defined by KRS 199.011(4).

(5) "Corporal physical discipline" is defined by KRS 199.896(18).

(6) "Developmentally appropriate" means suitable for the specific age range and abilities of a child.

(7) "Family child-care home" is defined by KRS 199.894(5).

(8) "Health professional" means a person currently licensed as a:

(a) Physician;

(b) Physician's assistant;

(c) Advanced registered nurse or practitioner; or

(d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.

(9) "Home" means the private primary residence of the certified family child-care home provider and contiguous property.

(10) "Infant" means a child who is less than twelve (12) months of age.

(11) "Parent" is defined by 45 C.F.R. 98.2.

(12) "Parental or family participation" means a family child-care home's provision of information or inclusion of a child's parent in the child-care home's activities such as:

(a) Distribution of a newsletter;

(b) Distribution of a program calendar;

(c) A conference between the provider and the parent; or

(d) Other activity designed to engage a parent in the program's activities.

(13) "Pediatric abusive head trauma" is defined by KRS 620.020(8).

(14) "Premises" means the building and contiguous property in which child care is certified.

(15) "Preschool-age" means a child who is older than a toddler and younger than school-

age.

(16) "Provider" means an owner, operator, or person who:

- (a) Cares for a child in the provider's own home;
- (b) Is not required to be licensed under 922 KAR 2:090; and
- (c) Meets the requirements of Section 2 of this administrative regulation.

(17) "Related" means having one (1) of the following relationships with the provider:

- (a) Child;
- (b) Grandchild;
- (c) Niece;
- (d) Nephew;
- (e) Sibling;
- (f) Step-child; or
- (g) Child in legal custody of the provider.

(18) "School-age child" means a child attending kindergarten, elementary, or secondary education.

(19) "Sex Offender Registry" means the registration system for adults who have committed sex crimes or crimes against minors established in accordance with KRS 17.500 through 17.580.

(20) "Toddler" means a child between the age of twelve (12) months and twenty four (24) months.

Section 2. Certification Process. (1) The cabinet or its designee shall be responsible for certifying a family child-care home.

(2) An applicant for certification shall:

(a) Show proof by photo identification or birth certificate that the individual is at least eighteen (18) years of age;

(b) Obtain commercial liability insurance of at least \$50,000 per occurrence; and

(c) Submit within ninety (90) days of initiation of the application process:

- 1. A completed OIG-DRCC-03, Certification Application for Family Child-Care Home;
- 2. A nonrefundable certification fee pursuant to KRS 199.8982(1)(b);
- 3. Written documentation from the local authority showing the child-care home is in compliance with local zoning requirements;
- 4. Documentation of the requirements of KRS 199.8982(1)(a)1 through 3 and 5;
- 5. A DCC-157, Certified Family Child-Care Home Central Registry Check, to complete:
 - a. A child abuse or neglect check using the central registry in accordance with 922 KAR 1:470; and

- b. An address check of the Sex Offender Registry;

- 6. A completed criminal records check required by KRS 17.165(5); and

- 7. A criminal records check for any previous state of residence completed once if:

- a. The applicant resided outside the state of Kentucky in the last five (5) years; and
 - b. No criminal records check has been completed for the applicant's previous state of residence.

(3) An initial applicant for certification shall have a:

(a) High school diploma, general equivalency diploma (GED), or documentation from a comparable educational entity; or

(b) Commonwealth Child Care Credential in accordance with 922 KAR 2:250.

(4) An applicant shall be currently certified by an agency approved in accordance with 922 KAR 2:240 in infant and child:

(a) Cardiopulmonary resuscitation (CPR); and

(b) First aid.

(5) An adult living in the home of the applicant, present during the hours of operation, or having unsupervised contact with a child in care, and the applicant's assistant shall submit to the cabinet:

(a) A criminal records check pursuant to KRS 17.165(5) by the Kentucky State Police or the Administrative Office of the Courts within one (1) year prior to application;

(b) A DCC-157 to complete:

1. A child abuse or neglect check using the central registry in accordance with 922 KAR 1:470; and

2. An address check of Sex Offender Registry;

(c) A criminal records check completed once for any previous state of residence if:

1. The adult resided outside the state of Kentucky in the last five (5) years; and

2. No criminal records check has been completed for the adult's previous state of residence; and

(d) A copy of negative tuberculin results or a health professional's statement documenting that the adult is free of active tuberculosis.

(6) An applicant or assistant who has been convicted of, or entered an Alford or guilty plea to, a non-violent felony or misdemeanor may be approved on a case by case basis with consideration given to the:

(a) Nature of the offense;

(b) Length of time that has elapsed since the event; and

(c) Applicant's life experiences after the conviction, Alford plea, or guilty plea.

(7) Upon receipt of a completed application for certification, and a nonrefundable certification fee pursuant to KRS 199.8982(1)(b), cabinet staff shall:

(a) Review and process the application; and

(b) Conduct an unannounced inspection of the home pursuant to KRS 199.8982(1)(b), including review of the evacuation plan in accordance with Section 18(7) of this administrative regulation.

(8) If the requirements of subsections (1) through (7) of this section, Section 3, and Sections 10 through 19 of this administrative regulation have been met, an applicant shall be certified as described in KRS 199.8982.

(9) Within three (3) months of submission to the cabinet of a complete OIG-DRCC-03, an applicant shall:

(a) Demonstrate completion of six (6) hours of cabinet-approved training in accordance with KRS 199.8982(1)(a)6; and

(b) Develop and implement a written plan for obtaining nine (9) hours of annual cabinet-approved training as required in Section 10(1) of this administrative regulation.

(10) A family child-care home certificate shall:

(a) Be displayed in a prominent place, as required by KRS 199.8982(1)(c);

(b) Contain the:

1. Name and address of the child care provider;

2. Maximum number of unrelated children who may be served;

3. Identification number; and

4. Effective and expiration dates; and

(c) Be valid for only the:

1. Name of the individual authorized on the certificate to operate a family child-care home; and

2. Residential address printed on the certificate.

(11) A change of location shall require:

- (a) A ten (10) calendar day notice;
- (b) A completed OIG-DRCC-03;
- (c) An inspection of the new home; and
- (d) Continued compliance with this administrative regulation.

Section 3. Renewal of Certification. (1) A family child-care certification shall be renewed every two (2) years.

(2) A family child-care home provider shall submit one (1) month prior to expiration of the provider's certification:

- (a) A completed OIG-DRCC-03;
- (b) A nonrefundable renewal fee pursuant to KRS 199.8982(1)(b);
- (c) A physician's statement documenting that the family child-care home provider's health is satisfactory for continued operation of a family child-care home; and
- (d) Proof that the family child-care home provider continues to meet the minimum requirements specified in Sections 2, 3, and 10 through 19 of this administrative regulation.

(3) The cabinet shall:

- (a) Review and process the application;
- (b) Conduct an unannounced inspection of the home pursuant to KRS 199.8982(1)(b); and
- (c) Approve the family child-care home within fifteen (15) calendar days of receipt of the application if the requirements in Sections 2, 3, and 10 through 19 of this administrative regulation are met.

(4) To the extent funds are available, the cabinet may conduct an unannounced inspection of the home pursuant to KRS 199.8982(1)(b) annually as a condition of certification renewal.

Section 4. Statement of Deficiency and Corrective Action Plans. (1) If the cabinet finds a provider noncompliant with Sections 2, 3, or 10 through 19 of this administrative regulation, the cabinet or its designee shall complete a written statement of deficiency.

(2) Except for a violation posing an immediate threat, a family child-care home shall submit a written corrective action plan to the cabinet or its designee within ten (10) calendar days from receipt of the statement of deficiency to eliminate or correct the regulatory violation.

(3) A corrective action plan shall include:

- (a) Specific action undertaken to correct a violation;
- (b) The date action was or will be completed; and
- (c) Action utilized to assure ongoing compliance.

(4) The cabinet or its designee shall review the plan and notify a family child-care home within thirty (30) calendar days from receipt of a plan, in writing, of the decision to:

- (a) Accept the plan;
- (b) Not accept the plan; or
- (c) Deny, suspend, or revoke the family child-care home's certification in accordance with Section 6, 7, or 8 of this administrative regulation.

(5) A notice of unacceptability shall state the specific reasons a plan was not accepted.

(6) A family child-care home notified of an unaccepted plan shall:

- (a) Submit an amended plan within ten (10) calendar days of notification; or
- (b) Have its certification revoked or denied for failure to submit an acceptable amended plan.

(7) Following two (2) unacceptable plans of correction in a forty-five (45) calendar day period, the cabinet shall deny an application for certification or revoke a provider's certification.

(8) An administrative regulatory violation reported on a statement of deficiency that poses an immediate threat to the health, safety, or welfare of a child shall be corrected by the family

child-care home provider within five (5) working days of notification.

(9) The voluntary relinquishment of a family child-care home's certification shall not preclude the cabinet's pursuit of adverse action.

Section 5. Denial of Application for Certification. (1) An application for initial certification or renewal of certification as a family child-care home shall be denied if the applicant, an assistant, or an adult residing in the household:

(a) Has abused or neglected a child according to a check of the central registry in accordance with 922 KAR 1:470;

(b) Has a history of behavior that may impact the safety or security of a child in care including:

1. A criminal conviction of, or an Alford plea or a plea of guilty to, a sex crime or violent crime in accordance with KRS 17.165;

2. A conviction for, or an Alford plea or a plea of guilty to, a drug-related felony, and (5) five years has not elapsed since the person was fully discharged from imprisonment, probation, or parole; or

3. Other behavior or condition indicating inability to provide reliable care to a child; or

(c) Is placed on the Sex Offender Registry.

(2) An application for certification as a family child-care home provider shall be denied if the applicant:

(a) Fails to comply with the minimum certification standards specified in Sections 10 through 19 of this administrative regulation and KRS 199.8982;

(b) Knowingly misrepresents or submits false information on the application or other form required by the cabinet or its designee;

(c) Refuses, during the hours of operation, access by:

1. A parent of a child in care, the cabinet, the cabinet's designee, or another agency with regulatory authority to:

a. A child in care; or

b. The provider's premises; or

2. The cabinet, the cabinet's designee, or another agency with regulatory authority to the provider's records;

(d) Is placed on intermediate sanction more than two (2) times in a three (3) year period; or

(e) Has been discontinued or disqualified from participation in:

1. The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

2. Another governmental assistance program due to fraud or abuse of that program.

(3) Effect of previous denial or revocation.

(a) If an applicant has had a previous child care registration, certification, license, or permit to operate subject to denial, suspension, revocation, or voluntary relinquishment pending an investigation or adverse action, the cabinet shall grant the applicant a certificate to operate a family child-care home if:

1. A seven (7) year period has expired from the:

a. Date of the prior denial, suspension, or revocation;

b. Date the certification, license, registration, or permit was voluntarily relinquished as a result of an investigation or a pending adverse action;

c. Last day of legal remedies being exhausted; or

d. Date of the Final Order from an administrative hearing; and

2. The applicant has:

a. The proven ability to comply with the provisions of this administrative regulation and KRS

199.8982;

b. Completed, since the time of the prior denial or revocation, sixty (60) hours of cabinet-approved training in developmentally appropriate child care practice; and

c. Not had an application, registration, certificate, license, or permit to operate as a child care provider denied or revoked for:

(i) Conviction of, or an Alford plea or a plea of guilty to, a sex crime or violent crime in accordance with KRS 17.165;

(ii) Abuse or neglect of a child according to a child abuse and neglect check of the central registry in accordance with 922 KAR 1:470;

(iii) Placement on the Sex Offender Registry;

(iv) Conviction of, or an Alford or guilty plea to, a drug-related felony, and five (5) years has not elapsed since the person was fully discharged from imprisonment, probation, or parole; or

(v) Has been discontinued or disqualified from participation in:

1. The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

2. Another governmental assistance program due to fraud or abuse of that program.

(b) If a certificate is granted after the seven (7) year period specified in paragraph (a) of this subsection, the provider shall serve a two (2) year probationary period during which the home shall be inspected on at least a quarterly basis.

Section 6. Intermediate Sanctions. (1) If the cabinet determines that a certified family child-care home provider is in violation of this administrative regulation, the cabinet may, based on the severity of the violation:

(a) Require the provider to participate in additional training;

(b) Increase the frequency of monitoring by cabinet staff;

(c) Enter into an agreement with the provider detailing the requirements for remedying a violation and achieving compliance; or

(d) Notify or require the provider to notify a parent of a child who may be affected by the situation for which an intermediate sanction has been imposed.

(2) An intermediate sanction shall result in a suspension or revocation of certification if a certified family child-care home provider:

(a) Fails to meet a condition of the intermediate sanction; or

(b) Violates a requirement of an intermediate sanction.

Section 7. Suspension. The cabinet shall take emergency action in accordance with KRS 13B.125, by issuing an emergency order that results in suspension of the operation of a certified family child-care home. (1) An emergency order shall:

(a) Be served to a certified family child-care home provider in accordance with KRS 13B.050(2); and

(b) Specify the regulatory violation that caused the emergency condition to exist.

(2) Upon receipt of an emergency order, a provider shall surrender the certificate of operation to the cabinet.

(3) The cabinet or its designee and the provider shall make reasonable efforts to:

(a) Notify a parent of each child in care of the suspended provider; and

(b) Refer a parent for assistance in locating alternate child care arrangements.

(4) A certified family child-care home required to comply with an emergency order issued in accordance with this section may submit a written request for an emergency hearing within five (5) calendar days of receipt of the order to determine the propriety of the certification's suspension.

(5) The cabinet shall conduct an emergency hearing within ten (10) working days of the request for hearing.

(6)(a) Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written decision affirming, modifying, or revoking the emergency order to suspend certification.

(b) The emergency order shall be affirmed if there is substantial evidence of an immediate threat to public health, safety, or welfare.

(7) A provider's certification shall be revoked if the:

(a) Provider does not request a hearing within the timeframes established in subsection (6) of this section;

(b) The emergency order is upheld by the administrative hearing conducted in accordance with KRS Chapter 13B; or

(c) The condition that resulted in the emergency order is not corrected within thirty (30) calendar days of service of the emergency order.

Section 8. Revocation.(1) A family child-care home provider's certification shall be revoked if a provider:

(a) Knowingly misrepresents or submits false information on the application or other form required by the cabinet or its designee;

(b) Interferes with a cabinet representative's ability to perform an official duty;

(c) Refuses, during the hours of operation, access by:

1. A parent of a child in care, the cabinet, the cabinet's designee, or another agency with regulatory authority to:

a. A child in care; or

b. The provider's premises; or

2. The cabinet, the cabinet's designee, or another agency with regulatory authority to the provider's records;

(d) Is convicted of, or enters an Alford or guilty plea to, a criminal charge that threatens the health, safety, or welfare of a child in care;

(e) Is unable to operate a family child-care home due to a medical condition;

(f) Is unable to continue to meet the requirements of KRS 199.8982(1) or Sections 2, 3, and Sections 10 through 19 of this administrative regulation;

(g) Is placed on intermediate sanction more than two (2) times in a three (3) year period; or

(h) Has been discontinued or disqualified from participation in:

1. The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

2. Another governmental assistance program due to fraud or abuse of that program.

(2) If the cabinet determines that a condition of subsection (1) of this section exists, the cabinet or its designee shall send a written notice of revocation delivered by personal service or through certified mail at least thirty (30) calendar days prior to the effective date of the revocation.

(3) The notice of revocation shall:

(a) Explain the reason for the revocation;

(b) Specify that the child care provider shall cease operation as a certified family child-care home upon revocation;

(c) Advise the family child-care home provider of the right to request an appeal on an OIG-DRCC-05, Certified Family Child-Care Home Request for Appeal, prior to the effective date of the revocation;

(d) Specify that revocation shall be stayed if an appeal is requested; and

(e) Require the family child-care home provider to surrender the certificate of operation to cabinet staff when the revocation becomes effective.

(4) If a provider's certification has been revoked, the cabinet or its designee and the provider shall make reasonable efforts to:

- (a) Notify a parent of each child in care; and
- (b) Refer the parent for assistance in locating alternate child care arrangements.

Section 9. Appeal of Denials, Intermediate Sanctions, Suspension, and Revocation. (1) If the cabinet denies certification, imposes an intermediate sanction, suspends certification, or revokes certification, the family child-care home provider may request an appeal by completing an OIG-DRCC-05 within twenty (20) calendar days of receipt of the notice of adverse action.

(2) Upon request of the appeal, the provider shall be afforded a hearing in accordance with KRS Chapter 13B.

(3) If a final order from an administrative hearing does not uphold a suspension, the provider may resume providing child care.

Section 10. Standards for the Provider. (1)(a) A provider shall complete annually at least nine (9) hours of cabinet-approved early care and education training beginning with the second year of operation, including one and one-half (1 1/2) hours of cabinet-approved pediatric abusive head trauma training in accordance with KRS 199.8982(2):

- 1. Within the second year of employment or operation in child care; and
- 2. Every subsequent five (5) years of employment or operation in child care.

(b) A provider or assistant's compliance with the training in accordance with paragraph (a) of this subsection or subsection (9) of this section may be verified through the cabinet-designed database maintained pursuant to 922 KAR 2:240.

(2) A provider shall not provide care for more unrelated children than the number authorized on the certificate of operation.

(3) If a provider cares for more than four (4) infants, including the provider's own or related infants, the provider shall have an assistant present.

(4) A provider shall not care for more than six (6) children under the age of six (6) years old, including the provider's own or related children.

(5) The maximum number of unrelated children in the care of a certified family child-care home provider shall not exceed six (6) at any one (1) time. A provider may care for four (4) related children in addition to six (6) unrelated children for a maximum child care capacity of ten (10) at any one (1) time.

(6) If a provider operates the in-home child care business for twenty-four (24) consecutive hours, the provider shall:

(a) Receive an eight (8) hour period of respite after working sixteen (16) consecutive hours; and

(b) Employ an assistant during the period of respite.

(7) Prior to being left alone with a child, an assistant shall be certified by a cabinet-approved agency in infant and child:

(a) CPR; and

(b) First aid.

(8) An assistant shall be:

(a) Eighteen (18) years of age or older;

(b) Under direct supervision of a provider;

(c) Used for providing care in a certified family child-care home; and

(d) Used in the absence of the certified provider.

(9) An assistant used in the absence of the family child-care home provider in excess of fourteen (14) calendar days during a one (1) year period shall demonstrate completion of at least nine (9) hours of cabinet-approved training, including pediatric abusive head trauma training pursuant to KRS 199.8982(2), in accordance with subsection (1) of this section.

(10) If a provider, an assistant, or a member in a provider's household is named as the alleged perpetrator in a child abuse or neglect report accepted by the cabinet in accordance with 922 KAR 1:330, the individual shall be removed from direct contact with a child in care:

(a) For the duration of the family-in-need-of-services assessment or investigation; and

(b) Pending completion of an administrative appeal process for a cabinet substantiation of child abuse or neglect in accordance with 922 KAR 1:320 or 922 KAR 1:480.

(11) During hours of operation, a provider and another person in the home shall:

(a) Be free of the influence of alcohol or a controlled substance except for use of a controlled substance as prescribed by a physician; and

(b) Prohibit smoking in the presence of children in care.

(12) During a provider's absence, an assistant shall be physically present at the home during hours of operation.

(13) A provider shall:

(a) Not be employed outside of the home during regular hours of operation; and

(b) Maintain daily attendance records documenting the arrival and departure time of each child, including records that are required in accordance with 922 KAR 2:160, Section 13, if a child receives services from the provider through the Child Care Assistance Program.

Section 11. The General Requirements of the Family Child-Care Home Environment. (1) A provider's home and each play area used for child care shall:

(a) Be free from risk of harm in accordance with the requirements of this administrative regulation; and

(b) Have adequate:

1. Heating and cooling;

2. Light; and

3. Ventilation.

(2) Each floor level used for child care shall have at least one (1):

(a) Unblocked exit to the outside;

(b) Smoke detector;

(c) Fire extinguisher; and

(d) Carbon monoxide detector if the home:

1. Uses fuel burning appliances; or

2. Has an attached garage.

(3) A new applicant or a provider who changes location shall have at least two (2) unblocked exits to the outside on each floor level used for child care.

(4) The areas of the home that are accessible to children in care shall be free from items harmful to children including the following items:

(a) Cleaning supplies, poisons, paints, and insecticides;

(b) Knives, scissors, and sharp objects;

(c) Power tools, lawn mowers, hand tools, nails, and other equipment;

(d) Matches, cigarettes, lighters, combustibles, and flammable liquids;

(e) Alcoholic beverages;

(f) Plastic bags; and

(g) Litter and rubbish.

(5) In accordance with KRS 527.070(1), firearms and ammunition shall be stored away from

the presence of children, in separate locked containers, which, in order to be opened, require a:

- (a) Key; or
- (b) Combination.
- (6) Electrical outlets not in use shall be covered.
- (7) An electric fan, floor furnace, or freestanding heater or fireplace shall:
 - (a) Be out of the reach of a child; or
 - (b) Have a safety guard to protect a child from injury.
- (8) A certified family child-care home shall have:
 - (a) At least one (1) working land-line telephone on each level used for child care unless the cabinet has been notified that the telephone is temporarily out of service; and
 - (b) A list of emergency numbers posted by each telephone, including numbers for the:
 - 1. Police;
 - 2. Fire station;
 - 3. Emergency medical care and rescue squad; and
 - 4. Poison control center.
- (9) Equipment and toys shall be:
 - (a) Designated by the manufacturer as developmentally appropriate to the age of children in care;
 - (b) In sufficient quantity for the number of children in care; and
 - (c) Safe, sound, clean, and in good repair.
- (10) Stairs and steps used for children in care shall be:
 - (a) Solid;
 - (b) Safe; and
 - (c) Railed.
- (11) If an infant or toddler is in the care of a provider, indoor stairs with more than two (2) steps shall be blocked.
- (12) Exclusive of the bathroom and storage area, an indoor area, including furnishings, used for child care shall contain at least thirty-five (35) square feet per child for:
 - (a) Play; and
 - (b) Activities that meet the developmental needs of the children in care.
- (13) An outdoor play area shall be free of unavoidable danger or risk.
- (14) Each child in an outdoor play area shall be under the direct supervision of the provider or assistant.
- (15) Outdoor stationary play equipment shall be:
 - (a) Securely anchored;
 - (b) Developmentally appropriate; and
 - (c) Safe.
- (16) A trampoline shall not be accessible to a child in the care of a provider.
- (17) A swimming pool on the premises shall:
 - (a) Be maintained;
 - (b) Have a water filtering system;
 - (c) Be supervised when in use; and
 - (d) Be inaccessible to children when not in use.
- (18) An above-ground pool shall have:
 - (a) A stationary wall no less than four (4) feet tall; and
 - (b) Hand holds or foot holds that are inaccessible when the pool is not in use.
- (19) A fire drill shall be:
 - (a) Conducted during hours of operation at least monthly; and

(b) Documented.

(20) An earthquake drill and a tornado drill shall be:

(a) Conducted during hours of operation at least quarterly; and

(b) Documented.

(21) A family child-care home shall:

(a) Be clean;

(b) Be uncluttered;

(c) Be free of insects and rodents;

(d) Have a water supply that is:

1. Potable;

2. Adequate; and

3. From an approved public water supply; and

(e) Have bathrooms, including toilets, sinks, and potty chairs that are:

1. Sanitary; and

2. In good working condition.

(22) Windows, doors, and outer openings shall be screened to prevent the entrance of vermin.

(23) Indoor and outdoor garbage shall be stored in a waterproof container with a tight-fitting cover.

(24) Playpens and play yards shall:

(a) Meet the federal standards as issued by the Consumer Product Safety Commission, including 16 C.F.R. 1221;

(b) Be manufactured for commercial use; and

(c) Not be used for sleeping or napping.

Section 12. Care Requirements for a Provider. (1) A provider shall ensure the health, safety, and comfort of each child.

(2)(a) Care for a child with a special need shall be consistent with the nature of the need as documented by the child's health professional.

(b) A child may include a person eighteen (18) years of age if the person has a special need for which child care is required.

(3) Television or video viewing by a child shall be limited to:

(a) Two (2) hours daily;

(b) The planned program activities; and

(c) Developmentally appropriate child-related content, as designated by standardized content guidelines.

(4) A child shall wash hands with liquid soap and warm running water:

(a) Before and after eating or handling food;

(b) After toileting or diaper change;

(c) After handling animals;

(d) After wiping or blowing nose;

(e) After touching items soiled with body fluids or waste; and

(f) After outdoor and indoor play time.

(5) A provider and an assistant shall:

(a) Wash hands with liquid soap and warm running water:

1. Before and after diapering a child;

2. Before and after feeding a child;

3. After toileting or assisting a child with toileting;

4. After handling animals;

5. Before dispensing medication;
 6. After caring for a sick child; and
 7. After wiping or blowing a child's or own nose; and
- (b) Assure that a child does not share:

1. Cups;
2. Eating utensils;
3. Wash cloths;
4. Towels; and
5. Toiletry items.

(6) An infant shall sleep and nap on the infant's back unless the infant's health professional signs a waiver that states the infant requires an alternate sleeping position.

(7) Rest time shall be provided for each child who is not school-age and who is in care for more than four (4) hours.

(8) Rest time shall include adequate space specified by the child's age as follows:

(a) For an infant:

1. An individual non-tiered crib that meets Consumer Product Safety Commission standards established in 16 C.F.R. 1219-1220;

2. A firm crib mattress in good repair with a clean tight-fitted sheet that is changed:

- a. Weekly; or
- b. Immediately if it is soiled or wet;
3. No loose bedding; and
4. No toys or other items except for the infant's pacifier; or

(b) For a toddler or preschool-age child:

1. An individual bed, a two (2) inch thick waterproof mat, or cot in good repair; and

2. Bedding that is in good repair and is changed:

- a. Weekly; or
- b. Immediately if it is soiled or wet.

(9) Rest time shall not exceed two (2) hours for a preschool-age child unless the child is attending nontraditional hours or is sick.

(10) A child who does not sleep shall be permitted to play quietly and be visually supervised.

(11) If overnight care is provided, a provider or an assistant shall:

- (a) Remain awake until every child in care is asleep; and
- (b) Sleep on the same floor level of the home as an infant or toddler.

(12) A certified family child care home shall provide a daily planned program:

(a) Posted in writing in a conspicuous location;

(b) Of activities that are individualized and developmentally appropriate for each child served;

(c) That provides experience to promote the individual child's physical, emotional, social, and intellectual growth and well-being; and

(d) That offers a variety of creative activities including:

1. Art;
2. Music;
3. Dramatic play;
4. Stories and books;
5. Science;
6. Block building;
7. Tactile activity;
8. Culture;

- 9. Indoor or outdoor play in which a child makes use of both small and large muscles;
- 10. A balance of active and quiet play, including group and individual activity; and
- 11. An opportunity for a child to:

- a. Have some free choice of activities;
- b. If desired, play apart from the group at times; and
- c. Practice developmentally appropriate self-help procedures in respect to:
 - (i) Clothing;
 - (ii) Toileting;
 - (iii) Hand-washing; and
 - (iv) Eating.

(13) Except for a school-aged child whose parent has given written permission and whose whereabouts are known, a child shall not be permitted off the premises of a family child-care home without a caregiver.

(14) Use of corporal physical discipline shall be prohibited pursuant to KRS 199.896(18).

(15) A child shall be released from a family child-care home to:

- (a) The child's custodial parent;
- (b) The person designated in writing by the parent to receive the child; or
- (c) In an emergency, a person designated over the telephone by the parent.

Section 13. Toilet and Diapering Requirements. (1) A toilet room shall:

(a) Have an adequate supply of toilet paper; and

(b) Be cleaned and sanitized daily.

(2) A sink shall be:

(a) Located in or immediately adjacent to toilets;

(b) Equipped with hot and cold running water that allows for hand washing;

(c) Equipped with hot water at a minimum temperature of ninety (90) degrees Fahrenheit and a maximum of 120 degrees Fahrenheit;

(d) Equipped with liquid soap and single use, disposable hand drying material;

(e) Equipped with an easily cleanable, covered waste receptacle; and

(f) Immediately adjacent to a changing area used for infants and toddlers.

(3) Each toilet shall:

(a) Be kept in clean condition;

(b) Be kept in good repair;

(c) Be in a lighted room; and

(d) Have ventilation.

(4) Toilet training shall be coordinated with the child's parent.

(5) An adequate quantity of freshly laundered or disposable diapers and clean clothing shall be available.

(6) If a toilet training chair is used, the chair shall be:

(a) Emptied promptly; and

(b) Sanitized after each use.

(7) Diapers or clothing shall be:

(a) Changed when soiled or wet;

(b) Stored in a covered leak proof container temporarily; and

(c) Washed or disposed of at least once a day.

(8) The proper methods of diapering and hand-washing shall be posted at each diaper changing area.

(9) If a child is being diapered, the child shall:

(a) Not be left unattended; and

(b) Be placed on a surface that is:

1. Clean;
2. Padded;
3. Free of holes, rips, tears, or other damage;
4. Nonabsorbent;
5. Easily cleaned; and
6. Free of items not used for diaper changing.

(10) Unless prescribed by a physician, individual disposable washcloths shall be used to thoroughly clean the affected area of the child.

(11) A provider or an assistant shall disinfect the diapering surface after each child is diapered.

(12) If a provider or an assistant wear disposable gloves, the gloves shall be changed and disposed of after each child is diapered.

Section 14. Food Requirements. (1) A provider and an assistant shall:

(a) Use sanitary procedures when preparing and serving food;

(b) Refrigerate perishable food and beverages; and

(c) Serve:

1. Breast milk or iron-fortified formula to a child age birth to twelve (12) months;
2. Pasteurized whole milk to a child age twelve (12) months to twenty-four (24) months; or
3. Pasteurized skim or low fat one (1) percent milk to a child age twenty-four (24) months to school-age.

(2) Water shall be:

(a) Available to a child in care; and

(b) Served in addition to meal requirements if a child requests throughout the day.

(3) A certified family child-care home shall offer each child the same food items unless the child's parent or health professional documents a dietary restriction that necessitates an alternative food item for the child.

(4) Second servings shall be available to a child.

(5) Food shall not be:

(a) Used for:

1. Reward; or

2. Punishment; or

(b) Withheld until all other food items are consumed.

(6) Meals shall:

(a) Be served in an amount appropriate to the age of the child;

(b) Include appropriate types of food according to the age of the child; and

(c) Not be served during television or video viewing.

(7) Breakfast shall include:

(a) Milk;

(b) Whole grain or enriched grain bread; and

(c) Fruit, vegetable, or 100 percent juice.

(8) A snack shall include two (2) of the following:

(a) Milk;

(b) Protein source;

(c) Fruit, vegetable, or 100 percent juice; or

(d) Whole grain or enriched grain bread.

(9) Lunch and dinner shall include:

(a) Milk;

- (b) Protein source;
- (c) 1. Two (2) vegetables;
- 2. Two (2) fruits; or
- 3. One (1) fruit and one (1) vegetable; and
- (d) Whole grain or enriched grain bread.
- (10) A weekly menu shall be:
 - (a) Prepared;
 - (b) Dated;
 - (c) Posted in a conspicuous place; and
 - (d) Kept on file for thirty (30) calendar days.
- (11) Substitutions to a posted weekly menu shall be noted on the day the meal is served.
- (12) Unless provided as part of the fee for child care or the provider is a participant in the food program, an infant's formula shall be prepared, labeled, and provided by the parent.
- (13) Each child's bottle shall be:
 - (a) Labeled;
 - (b) Covered; and
 - (c) Refrigerated.
- (14) The refrigerator shall:
 - (a) Be in working order; and
 - (b) Maintain a product temperature at or below forty-five (45) degrees Fahrenheit.
- (15) Except if thawed for preparation or use, frozen food shall be kept at a temperature of zero degrees Fahrenheit as verified by a thermometer in the freezer.
- (16) While bottle-feeding an infant, the:
 - (a) Child shall be held; and
 - (b) Bottle shall not be:
 - 1. Propped;
 - 2. Left in the mouth of a sleeping infant; or
 - 3. Heated in a microwave.

Section 15. Medication and First Aid. (1) Medication, including medicine that requires refrigeration, shall be stored in a locked container or area with a lock.

(2) Prescription and nonprescription medication shall be administered to a child in care with a daily written request of the child's parent.

(3) Prescription and nonprescription medications shall be:

- (a) Labeled; and
- (b) Administered according to directions or instructions on the label.

(4) A provider shall:

(a) Maintain first aid supplies that are easily accessible for use in an emergency, and these supplies shall be inaccessible to the children in care; and

(b) Wash superficial wounds with soap and water before bandaging.

(5) First aid supplies shall include a fully-equipped first aid kit containing the following non-expired items:

- (a) Liquid soap;
- (b) Adhesive bandages;
- (c) Sterile gauze;
- (d) Medical tape;
- (e) Scissors;
- (f) Thermometer;
- (g) Flashlight;

- (h) Cold pack;
- (i) First-aid book;
- (j) Disposable gloves; and
- (k) CPR mouthpiece.
- (6) A provider shall provide immediate notification of a medical emergency to a child's:
 - (a) Parent; or
 - (b) Family physician, if the parent is unavailable.
- (7) A quiet, separate area that is easily supervised shall be provided for a child too sick to remain with other children.
- (8) A provider and an assistant shall:
 - (a) Be able to recognize symptoms of childhood illnesses;
 - (b) Be able to provide basic first aid; and
 - (c) Maintain a child care program that assures affirmative steps are taken to protect children from abuse or neglect pursuant to KRS 600.020(1).

Section 16. Animals. (1) An animal shall not be allowed in the presence of a child in care:

- (a) Unless:
 - 1. The animal is under the supervision and control of an adult;
 - 2. Written parental consent has been obtained; and
 - 3. The animal is certified as vaccinated against rabies; or
- (b) Except in accordance with subsection (3) of this section.
- (2) A parent shall be notified in writing if a child has been bitten or scratched by an animal.
- (3) An animal that is considered undomesticated, wild, or exotic shall not be allowed at a certified family child-care home unless the animal is:
 - (a) A part of a planned program activity led by an animal specialist affiliated with a zoo or nature conservatory; and
 - (b) In accordance with 301 KAR 2:081 and 301 KAR 2:082.

Section 17. Transportation. (1) If transportation is provided or arranged by the certified family child-care home provider, the provider shall:

- (a) Have written permission from a parent to transport his or her child;
- (b) Have a car or van equipped with seat belts;
- (c) Require that a child:
 - 1. Be restrained in an appropriate safety seat meeting state and federal motor vehicle safety standards in accordance with KRS 189.125 and 49 C.F.R. 571.213;
 - 2. Remain seated while the vehicle is in motion; and
 - 3. If under thirteen (13) years of age, be transported in the back seat;
- (d) Have a valid driver's license issued by the Division of Motor Vehicles;
- (e) Have emergency and identification information about each child in the vehicle if children are being transported; and
- (f) Conform to state laws pertaining to vehicles, driver's license, and insurance pursuant to KRS 186.020.
- (2) A child shall not be left unattended:
 - (a) At the site of aftercare delivery; or
 - (b) In a vehicle.
- (3) A child shall not be left in a vehicle while it is being repaired.
- (4) The back of a pickup truck shall not be used to transport a child.
- (5) Firearms, ammunition, alcohol, or illegal substances shall not be transported in a vehicle transporting children.

- (6) A vehicle shall not transport children and hazardous materials at the same time.
- (7) A vehicle transporting a child shall have the headlamps on.
- (8) If the driver is not in the driver's seat, the:
 - (a) Engine shall be turned off;
 - (b) Keys shall be removed; and
 - (c) Emergency brake shall be set.
- (9) A driver of a vehicle transporting a child for a certified provider shall:
 - (a) Be at least twenty-one (21) years old;
 - (b) Complete:
 - 1. The background checks described in Section 2(2)(c)5 or 2(5) of this administrative regulation; and
 - 2. An annual check of the:
 - a. Kentucky driver history records in accordance with KRS 186.018; or
 - b. Driver history records through the state transportation agency that issued the driver's license;
 - (c) Hold a current driver's license that has not been suspended or revoked during the last five (5) years; and
 - (d) Not caused an accident which resulted in the death of a person.
- (10) Based on the harm, threat, or danger to a child's health, safety, and welfare, the cabinet shall pursue an adverse action in accordance with Section 5, 6, 7, or 8 of this administrative regulation:
 - (a) For a violation of this section; or
 - (b) If the provider:
 - 1. Fails to report an accident in accordance with Section 19(10)(a) of this administrative regulation; or
 - 2. Transports more passengers than the vehicle's seating capacity and safety restraints can accommodate.

Section 18. Records. (1) A provider shall maintain:

- (a) A current immunization certificate for each child in care within thirty (30) days of the child's enrollment, unless an attending physician or the child's parent objects to the immunization of the child pursuant to KRS 214.036;
- (b) A written record for each child:
 - 1. Completed and signed by the child's parent;
 - 2. Retained on file on the first day the child attends the family child-care home; and
 - 3. To contain:
 - a. Identifying information about the child, which includes, at a minimum, the child's name, address, and date of birth;
 - b. Contact information to enable the provider to contact the child's:
 - (i) Parent at the parent's home or place of employment;
 - (ii) Family physician; and
 - (iii) Preferred hospital;
 - c. The name of each person who is designated in writing to pick-up the child;
 - d. The child's general health status and medical history including, if applicable:
 - (i) Allergies;
 - (ii) Restriction on the child's participation in activities with specific instructions from the child's parent or health professional; and
 - (iii) Permission from the parent for third-party professional services in the family child-care home;

e. The name and phone number of each person to be contacted in an emergency situation involving or impacting the child;

f. Authorization by the parent for the provider to seek emergency medical care for the child in the parent's absence; and

g. A permission form for each trip away from the family child-care home signed by the child's parent in accordance with Section 17(1) of this administrative regulation; and

(c) Daily attendance records documenting the arrival and departure time of each child, including records that are required in accordance with 922 KAR 2:160, Section 13, if a child receives services from the provider through the Child Care Assistance Program.

(2) A certified family child-care home provider shall maintain the confidentiality of a child's records.

(3) The cabinet shall provide, upon request, public information pursuant to KRS 199.8982(1)(d) and (e).

(4) A certified family child-care home provider shall:

(a) Report an incident of suspected child abuse or neglect pursuant to KRS 620.030(1); and

(b) Provide the cabinet access and information in the completion of the investigation pursuant to KRS 620.030(4).

(5) A certified family child-care home provider shall maintain a written record of:

(a) Quarterly practiced earthquake drills and tornado drills detailing the date, time, and participants in accordance with Section 11(20) of this administrative regulation;

(b) Monthly practiced fire drills detailing the date, time, and participants in accordance with Section 11(19) of this administrative regulation; and

(c) Reports to the cabinet that are required in accordance with Section 19(10) of this administrative regulation.

(6) A certified family child-care home provider shall keep all records for five (5) years.

(7)(a) A certified family child-care home provider shall have a written evacuation plan in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to a child in care in accordance with KRS 199.895.

(b) The cabinet shall post an online template of an evacuation plan that:

1. Fulfills requirements of KRS 199.895;

2. Is optional for an applicant or a family child-care home's use; and

3. Is available to an applicant or a family child-care home without charge.

Section 19. Certified Family Child-Care Home Program. The certified family child-care home provider shall:

(1) Develop written information that specifies the:

(a) Rate for child care;

(b) Expected frequency of payment for the program;

(c) Hours of operation; and

(d) Policy regarding:

1. Late fees;

2. Holidays;

3. Vacation;

4. Illness; and

5. Emergency pick up;

(2) Make available a copy of the certification standards to each parent;

(3) Provide each parent with the name, address, and telephone number of the cabinet for the purpose of registering a complaint if the parent believes the family child-care home provider is not meeting the standards;

(4) Post and provide to each parent a copy of children and parent rights, as required by KRS 199.898;

(5) Allow a parent, the cabinet, the cabinet's designee, or another agency with regulatory authority access to the family child-care home at any time a child is in care;

(6) Communicate with each child's parent about the child's:

(a) Development;

(b) Activities;

(c) Likes; and

(d) Dislikes;

(7) Post in a prominent area in the home:

(a) The staff to child ratios described in Section 10 of this administrative regulation;

(b) The planned program of activities;

(c) Each statement of deficiency issued by the cabinet during the current certification period;

(d) Each plan of correction submitted by the certified family child-care home to the cabinet during the current certification period; and

(e) Daily schedule including any trips outside the family child-care home;

(8) Coordinate at least one (1) annual activity involving parental or family participation;

(9) Maintain a written child care agreement with each child's parent, including the name of each person designated by the parent to pick up the child; and

(10) Report:

(a) The following to the cabinet within twenty-four (24) hours from the time of discovery:

1. A communicable disease, which shall also be reported to the local health department pursuant to KRS 214.010;

2. An accident or injury to a child that requires medical care;

3. An incident that results in legal action by or against the family child-care home that:

a. Affects:

(i) A child in care;

(ii) The provider;

(iii) An assistant; or

(iv) A member of the provider's household; or

b. Includes the provider's discontinuation or disqualification from a governmental assistance program due to fraud or abuse of that program;

4. An incident involving fire or other emergency, including a vehicular accident when the provider is transporting a child receiving child care services; or

5. A report of child abuse or neglect that:

a. Has been accepted by the cabinet in accordance with 922 KAR 1:330; and

b. Names the alleged perpetrator as the:

(i) Provider;

(ii) Provider's assistant; or

(iii) Member of the provider's household;

(b) The death of a child to the cabinet within one (1) hour; or

(c) Temporary or permanent closure as soon as practicable to the cabinet and the parent of a child in the family child-care home.

Section 20. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DCC-157, Certified Family Child-Care Home Central Registry Check", edition 4/13;

(b) "OIG-DRCC-03, Certification Application for Family Child-Care Home", edition 7/13;

and

(c) "OIG-DRCC-05, Certified Family Child-Care Home Request for Appeal", edition 8/3/12.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community-Based Services, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. (19 Ky.R. 663; Am. 954; 1090; eff. 11-9-1992; 20 Ky.R. 155; 556; 806; eff. 10-13-1993; 23 Ky.R. 2884; eff. 2-19-1997; 25 Ky.R. 1241; 1657; 1894; eff. 1-19-1999; Recodified from 905 KAR 2:100, 2-1-1999; 27 Ky.R. 1642; 2181; eff. 2-1-2001; 30 Ky.R. 497; 945; 1295; eff. 11-19-2003; TAm eff. 10-29-2004; 34 Ky.R. 1248; 2001; 2160; eff. 3-19-2008; 39 Ky.R. 883; 1711; eff. 3-8-2013; 39 Ky.R. 2247; eff. 9-18-2013.)